Montana Department of Natural Resources and Conservation
Water Resources Division
Water Rights Bureau

ENVIRONMENTAL ASSESSMENT
For Routine Actions with Limited Environmental Impact

Part I. Proposed Action Description

1. Applicant/Contact name and address: **City of Helena**
Department of Parks and Recreation
316 N. Park Avenue
Helena, MT 59644

2. Type of action: **APPLICATION TO CHANGE A WATER RIGHT NO. 41I-30031012 (Statements of Claim Nos. 41I 89212 & 41I 89213)**

3. Water source name: **Tenmile Creek**

4. Location affected by project: **Sec. 7, TWP 10N RGE 3W, Lewis and Clark County**

5. Narrative summary of the proposed project, purpose, action to be taken, and benefits:
This proposed change is for mitigation and instream flow purposes on Tenmile Creek located in the N2SE and the SWSE of Sec. 7, T10N R3W, Lewis and Clark County.

This change application requests to change the purpose, point of diversion and the place of use of two surface water rights for irrigation currently owned by the City of Helena Tenmile Creek (41I 89212 & 41I 89213). The change of these two water rights intends to mitigate the consumptive ground water use of permit application 41I 30026231.

This change application requests 25.5 gallons per minute (gpm) up to 12.28 acre-feet per year to protect instream flows and 156 gpm up to 67.21 acre-feet per year from water right 41I 89213. The application also requests 156 gpm up to 75.87 acre-feet per year to protect instream flows from water right 41I 89212.

Permit application, 41I 30026231, is requesting 85 gpm up to 15.6 acre-feet per year from a groundwater well. The purpose of the application is to irrigate 7.86 acres of grass and shrubs at Kindrick Legion Field-Memorial City Park. The applicant proposes to replace the source of the irrigation at Kindrick Legion Field-Memorial Park from the current municipal water supply to the well (aka KL-1 "Kendrick Legion field well) for a period of use from April 15 through October 15.

The DNRC shall issue an authorization to change to the applicant if the criteria in 85-2-402, MCA are met.

6. Agencies consulted during preparation of the Environmental Assessment:
(Include agencies with overlapping jurisdiction)

MT Natural Heritage Program - Species of Concern, T/E
The Montana Noxious Weed Survey and Mapping System
NRCS Web Soil Survey
Dan Shaffer, TtEMI, Consultant
Bill Uthman, DNRC Hydrogeologist

Part II. Environmental Review

1. Environmental Impact Checklist:

PHYSICAL ENVIRONMENT

WATER QUANTITY, QUALITY AND DISTRIBUTION

Water quantity **-** *Assess whether the source of supply is identified as a chronically or periodically dewatered stream by DFWP. Assess whether the proposed use will worsen the already dewatered condition.*

Determination: **No significant impact.**
This application proposes to protect instream flows for fisheries. Montana Fish Wildlife and Parks MFISH program has designated Tenmile Creek as chronically dewatered from river mile 0.00 through 13.4. This application proposes to protect stream flows from further depletion by mitigating ground water depletion for permit 41I 30026231 and protecting water for instream flow and fisheries purposes.

Water quality **-** *Assess whether the stream is listed as water quality impaired or threatened by DEQ, and whether the proposed project will affect water quality.*

Determination: **No significant impact.**
The Montana DEQ Clean Water Act Information Center lists Tenmile Creek on the 2000 303d list. Agriculture and industrial uses were fully supporting; primary contact was partially supporting and aquatic life, cold water fishery, drinking supply were not supporting. The proposed project is for instream flow protection and will not affect water quality.

Groundwater **-** *Assess if the proposed project impacts ground water quality or supply. If this is a groundwater appropriation, assess if it could impact adjacent surface water flows.*

Determination: **No significant adverse impact.**
The application involves mitigation and instream flows in Ten Mile Creek. There is no groundwater involved in this application.

DIVERSION WORKS - *Assess whether the means of diversion, construction and operation of the appropriation works of the proposed project will impact any of the following: channel impacts, flow modifications, barriers, riparian areas, dams, well construction.*

Determination: **No significant adverse impact.**
This application is for surface water mitigation and instream flow protection-no diversion works are involved with this application.

UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES

Endangered and threatened species *- Assess whether the proposed project will impact any threatened or endangered fish, wildlife, plants or aquatic species or any "species of special concern," or create a barrier to the migration or movement of fish or wildlife. For groundwater, assess whether the proposed project, including impacts on adjacent surface flows, would impact any threatened or endangered species or "species of special concern."*

Determination: **No significant impact.**
The MT Natural Heritage Program identified the Lesser Rushy Milkvetch, *Astragalus convallarius*, Brewer's Sparrow, *Spizella breweri*, Small Yellow Lady's-slipper, *Cypripedium parviflorum*, Canada Lynx*, Lynx Canadensis,* Wedge-leaved Saltbush*, Atriplex truncata,* Box elder, *Acer negundo*, and Lewis's Woodpecker, *Melanerpes lewis*, as species of special concern in the vicinity of the project.

Lesser Rushy Milkvetch is a vulnerable species of the pea family and is found in valleys and foothills of grasslands and in open woodland areas.

Brewer's Sparrow's can be abundant in sagebrush, desert, and shrubland/chaparral habitat and will breed in high densities. This species prefers habitat with tall sagebrush shrubs for nesting and song perches; and low percentage grass cover to facilitating foraging on the ground. Loss of breeding habitat and sagebrush fragmentation are a concern for this species linked to population declines.

American Yellow Lady's-slipper is a perennial plant that grows in fens, damp mossy woods, seepage areas, and moist forest meadow ecotones, in valley to lower montane zones.

Canada Lynx generally roam in boreal and montane regions. These regions are dominated by coniferous or mixed forest with thick undergrowth. They may also enter open forest, rocky areas, and tundra to forage for abundant prey.

Wedge-leaved saltbush occurs in vernally moist, alkaline soil around ponds and along streams in valleys.

Box-elder's occur in bottomland forests, disturbed and weedy areas, mesic upland forests, or mixed forest edges. Box-elder's are a common tree of generally small size and great tolerance. The species is common in waste areas and is considered by some to be weed-like in nature. It can be used as a street tree in harsh urban environments and a soil stabilizer in disturbed areas.

The Lewis Woodpeckers are vulnerable to permanent losses of large snags necessary for nesting sites or degradation of foraging habitat. Important habitat features include an open tree canopy, a brushy under story with ground cover, and dead trees for nest cavities.

No fish species of special concern were identified.

Wetlands *- Consult and assess whether the apparent wetland is a functional wetland (according to COE definitions), and whether the wetland resource would be impacted.*

Determination: **No significant adverse impact.**
There are no wetlands involved in this project.

Ponds **-** *For ponds, consult and assess whether existing wildlife, waterfowl, or fisheries resources would be impacted.*

Determination: **No significant adverse impact.**
There are no ponds involved in the project.

GEOLOGY/SOIL QUALITY, STABILITY AND MOISTURE - *Assess whether there will be degradation of soil quality, alteration of soil stability, or moisture content. Assess whether the soils are heavy in salts that could cause saline seep.*

Determination: **No significant adverse impact.**

VEGETATION COVER, QUANTITY AND QUALITY/NOXIOUS WEEDS - *Assess impacts to existing vegetative cover. Assess whether the proposed project would result in the establishment or spread of noxious weeds.*

Determination: **No significant impact.**
The Montana Noxious Weed Survey and Mapping System identified Spotted Knapweed, Leafy spurge, and Dalmatian toadflax as the noxious weeds in the proposed project area. The landowner is responsible for controlling any establishment of noxious weeds as a result of disturbance.

AIR QUALITY - *Assess whether there will be a deterioration of air quality or adverse effects on vegetation due to increased air pollutants.*

Determination: **No significant impact.**

HISTORICAL AND ARCHEOLOGICAL SITES - *Assess whether there will be degradation of unique archeological or historical sites in the vicinity of the proposed project.*

Determination: **No significant impact.**
The State Historic Preservation Office was not contacted about this proposed project. The land has been historically used for municipal irrigation purposes and the area would have already disturbed any historic sites. Since the property is located on City of Helena property, the decision to conduct a cultural inventory would be at the discretion of the City of Helena.

DEMANDS ON ENVIRONMENTAL RESOURCES OF LAND, WATER, AND ENERGY - *Assess any other impacts on environmental resources of land, water and energy not already addressed.*

Determination: **No significant adverse impact.**
The proposed project will not cause any additional impacts on land, water, or energy resources.

HUMAN ENVIRONMENT

LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS - *Assess whether the proposed project is inconsistent with any locally adopted environmental plans and goals.*

Determination: **No significant adverse impact.**

ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES - *Assess whether the proposed project will impact access to or the quality of recreational and wilderness activities.*

Determination: **No significant adverse impact.**
This proposed project will not impact access to or the quality of recreational and wilderness activities. The project in located in the City of Helena.

HUMAN HEALTH - *Assess whether the proposed project impacts on human health.*

Determination: **No significant adverse impact.**

PRIVATE PROPERTY - *Assess whether there are any government regulatory impacts on private property rights.*
*Yes___ No_**X**__ If yes, analyze any alternatives considered that could reduce, minimize, or eliminate the regulation of private property rights*.

Determination: **No impact.**

OTHER HUMAN ENVIRONMENTAL ISSUES - *For routine actions of limited environmental impact, the following may be addressed in a checklist fashion.*

*1. **Impacts on:***

(a) Cultural uniqueness and diversity? **No significant impact**.

(*b) Local and state tax base and tax revenues?* **No significant impact**.

(c) Existing land uses? **No significant impact.**

(*d) Quantity and distribution of employment?* **No significant impact.**

(e) Distribution and density of population and housing? **No significant impact.**

(f) Demands for government services? **No significant impact.**

(g) Industrial and commercial activity? **No significant impact.**

(h) Utilities? **No significant impact.**

(i) Transportation? **No significant impact.**

(j) Safety? **No significant impact.**

(k) Other appropriate social and economic circumstances? **No significant impact.**

2. *Secondary and cumulative impacts on the physical environment and human population:*

Secondary Impacts: **No impacts were identified at this time.**

Cumulative Impacts: **No impacts were identified at this time.**

3. *Describe any mitigation/stipulation measures:* **None**

4. *Description and analysis of reasonable alternatives to the proposed action, including the no action alternative, if an alternative is reasonably available and prudent to consider*:

5. **Permit Application No. 30026231-41I went through the public notice process and received one objection. This Change Application (30031012-41I) is to mitigate the possible effects of the permit application well on Ten Mile Creek. The no action alternative would prevent the applicant from mitigating the possible adverse affects of the well. The water use permit cannot be granted without a mitigation plan in place.**

Application for Beneficial Water Use Permit No. 30026231-41I
Application to Change a Water Right No. 30031012-41I

PART III. Conclusion

1. *Preferred Alternative:* **Issue the authorization as applied for by the applicant, or in some modified form considered reasonable.**

2. *Comments and Responses:* **There have been no comments or responses at this time.**

3. *Finding:*
*Yes___No_**X**__ Based on the significance criteria evaluated in this EA, is an EIS required?*

If an EIS is not required, explain why the EA is the appropriate level of analysis for this proposed action: **An EA is the appropriate level of analysis for this action. There are no significant impacts identified, therefore an EIS is not required.**

Name of person(s) responsible for preparation of EA:

Name: **Lindsay Volpe**
Title: **Water Resource Specialist**
Date: **May 2, 2008**